

Article 8.5. Requirements for Management of Recyclable Materials Used in Agriculture**§66266.115. Generator Requirements.**

(a) Except as provided otherwise in subsection (c)(4) of this section, a person who generates a recyclable material which is to be used in its existing state in agriculture as defined in subsection (e) of this section shall, comply with the following.

(1) If the recyclable material is to be transferred to another person for such agricultural use, the generator shall comply with all of the requirements of this division applicable to a generator of a hazardous waste with respect to the management of such a material, and shall comply with the following additional requirements.

(A) The generator shall submit to the Department for approval the following information at least 60 days before the generator intends to transfer ownership of a recyclable material:

1. a description of the sources, general composition and physical state of the recyclable material;
2. an assessment, consistent with the sources of the recyclable material, of representative material from each of its sources showing the following:

a. its hazardous characteristics pursuant to the criteria of chapter 11 of this division;
b. the concentrations of all substances listed in sections 66261.24(a)(2) and (a)(7) and of all other substances which, by the criteria of chapter 11 of this division, are present at hazardous waste concentrations;
c. the total concentration of boron in boron-containing compounds, and the total concentrations of nitrate, phosphate and sulfate.

(B) If the recyclable material is to be applied to soil or other growing medium, the generator shall submit to the Department for approval, at the same time as the generator submits the information required in subsection(a)(1)(A) of this section, a letter from an agronomist certified by the American Society of Agronomy stating for the recyclable material and each source thereof:

1. that application of the recyclable material to soil or other growing medium will enhance the agricultural productivity of the soil or other medium;
2. that major and minor constituents in the recyclable material will not prove to be detrimental to agricultural use of the soil or other medium;
3. that conditions and/or restrictions, if any, should be placed on the use of the recyclable material with respect to rates and frequencies of application, concentrations and compatibilities when mixed with other materials in formulated fertilizers or soil amendments or when applied in conjunction with other such materials, types and chemical compositions of soils on which it is used and kinds of crops for which it should be used or not used.

(C) If the recyclable material is to be used as food for domestic livestock or wildlife, the generator shall submit to the Department for approval at the same time as the generator submits the information required in subsection (a)(1)(A) of this section, a statement under penalty of perjury that the recyclable material meets the requirements for commercial feeds containing drugs, food additives, or harmful substances established by the California Department of Food and Agriculture in articles 2 (commencing with section 2676) and 9 (commencing with section 2733) of group 2 of subchapter 2 of chapter 4 of title 3 of the California Code of Regulations.

(2) If the generator intends to utilize the recyclable material for such agricultural use without transferring ownership of the material to another person, the generator shall submit to the Department for approval the information required in subsections (a)(1)(A) and (a)(1)(B) or (a)(1)(C) of this section at least 60 days before the intended use of the recyclable material.

(3) After receiving approval from the Department pursuant to subsection (c) of this section, the generator described in subsections (a)(1)(B) or (a)(1)(C) of this section shall transfer ownership of the recyclable material to another person only after the generator has received written confirmation that the recipient has received a copy of the information provided to the Department under subsection (a)(1) of this section and a copy of the Department's letter of approval obtained pursuant to subsection (c) of this section.

(b) A person who generates a recyclable material which is to be processed prior to use in agriculture, shall comply with all of the applicable requirements of this division (other than the requirements of subsection (a) of this section, unless the processed product is hazardous under chapter 11 of this division and the processor is not licensed by the California Department of Food and Agriculture) applicable to a generator of a hazardous waste with respect to the management of such a material.

(c) Upon receipt of the information required under subsection (a)(1)(A) and either (a)(1)(B) or (a)(1)(C) of this section, the Department shall determine whether the application of the recyclable material or its processed product (if the product is hazardous under chapter 11 of this division and the processor is not licensed by the California Department of Food and Agriculture) to land or its use as a food for animals would cause a potential hazard to health, safety or the environment. The Department shall act on the information submitted pursuant to subsection (a)(1)(A) and either (a)(1)(B) or (a)(1)(C) of this section as provided in section 66260.210(d).

(1) If the Department determines that the application of the recyclable material to land or its use as a food for animals would pose no such hazard, the Department shall send to the generator or processor a letter of approval to use the material in agriculture.

(2) The Department's approval shall be effective until the earliest of the following dates:

(A) an expiration date specified in the Department's letter of approval;
(B) the date that any of the information submitted to the Department by the generator or the processor pursuant to subsection (a)(1) of this section or section 66266.117(b)(1), respectively, changes significantly;
(C) the date five years after the date of the Department's letter of approval; or
(D) the date that the Department suspends or revokes the letter of approval for cause.

(3) If the Department determines that the application of the recyclable material to land or its use as a food for animals would pose such a hazard, the Department shall send to the generator or processor written denial of approval to use the material in agriculture and the reason for that denial.

(4) The Department shall deny the use of any of the following materials in agriculture without prior processing to eliminate the constituents or characteristics that qualify the material as one of the following:

(A) a material which is an extremely hazardous waste under chapter 11 of this division;

(B) a material which is a restricted hazardous waste under chapter 18 of this division;

(C) a material which is a RCRA hazardous waste.

(d) No person shall use a recyclable material in agriculture or transfer such a material to another person for use in agriculture, without obtaining a letter of approval from the Department pursuant to subsection (c) of this section prior to such use or transfer, unless the material is to be transferred to the operator of a facility where it will be processed for such agricultural use pursuant to a valid license issued by the California Department of Food and Agriculture.

(e) As used in this chapter, "use in agriculture" means that a recyclable material (either in its existing state or in processed products) is applied to the land as a fertilizer, soil amendment, agricultural mineral, or an auxiliary soil and plant substance, or is used to produce a food for domestic livestock or wildlife.

NOTE: Authority cited: Sections 25150, 25159, 25159.5, 25170, 58004 and 58012 Health and Safety Code.

Reference: Sections 25143.2(a), 25154, 25155, 25159.5 and 25170, Health and Safety Code.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

2. Renumbering of former article 8 to new article 8.5, renumbering of former section 66266.110 to new section 66266.115, and amendment of subsection (c)(2)(B) and NOTE filed 7-1-96; operative 7-31-96 (Register 96, No. 27).

3. Amendment of subsections (a)(1) and (b) and NOTE filed 9-20-96; operative 10-20-96 (Register 96, No. 38).

§66266.116. Transporter Requirements.

(a) A person who transports a recyclable material to a facility where the material is to be used in its existing state or processed for use, in agriculture, shall comply with all of the requirements of this division applicable to a transporter of a hazardous waste with respect to the management of such a material.

NOTE: Authority cited: Sections 25150, 25159, 25159.5, 58004 and 58012 Health and Safety Code. Reference: Sections 25159.5, 25160, 25163 and 25170, Health and Safety Code.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

2. Renumbering of former section 66266.111 to new section 66266.116 and amendment of NOTE filed 7-1-96; operative 7-31-96 (Register 96, No. 27).

§66266.117. Operator Requirements.

(a) A person who operates a facility which meets either of the criteria in subsection (a)(1) or (a)(2) of this section shall comply with the requirements in subsection (b) of this section.

(1) At the facility, a recyclable material is to be used in its existing state in agriculture.

(2) At the facility, a product processed from a recyclable material at a facility which is not licensed by the California Department of Food and Agriculture is to be used in agriculture and the processed product is hazardous under chapter 11 of this division.

(b) A person who operates a facility described in subsection (a) of this section shall comply with the following:

(1) all of the requirements of this division applicable to an operator of a hazardous waste facility with respect to the management of such a material;

(2) the additional requirements listed below.

(A) An operator shall use a recyclable material in agriculture only after receipt of the documents required under section 66266.115(a)(3).

(B) An operator shall use a recyclable material in agriculture only in compliance with the information in the documents provided pursuant to section 66266.115(a)(3).

(c) A person who operates a facility where a recyclable material used in agriculture is to be processed for such use, shall comply with all of the requirements of this division applicable to the operator of a hazardous waste facility with respect to the handling and management of such a material and shall comply with the additional requirements listed below.

(1) If the facility is not licensed by the California Department of Food and Agriculture and the product processed from the recyclable material is hazardous under chapter 11 of this division, the operator shall comply with the requirements of this division as if the operator were the generator of a hazardous waste under section 66266.115(a)(1).

(2) If the facility is licensed by the California Department of Food and Agriculture and the product processed from the recyclable material is hazardous under chapter 11 of this division, the operator shall be exempt from the requirements of this division as they pertain to a generator of a hazardous waste under section 66266.115(a)(1).

NOTE: Authority cited: Sections 25150, 25159, 25159.5, 58004 and 58012 Health and Safety Code. Reference:

Sections 14551 and 15051, Food and Agricultural Code; Sections 25159.5, 25170 and 25201, Health and Safety Code.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).
2. Renumbering of former section 66266.112 to new section 66266.117 and amendment of subsections (b)(3)(A)-(B) and (c)(1)-(2) and NOTE filed 7-1-96; operative 7-31-96 (Register 96, No. 27).
3. Amendment of subsection (b)(1), repealer of subsection (b)(2) and subsection renumbering, and amendment of subsections (c) filed 9-20-96; operative 10-20-96 (Register 96, No. 38).